



# WASHINGTON UPDATE

444 N. Capitol Street NW, Suite 234 ♦ Washington, DC 20001 November 25, 2013

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## Will Virtual Currencies Enter Into State Finance?

Two hearings were held last week to look at the emerging field of virtual currencies, and what effect they may have on federal and state financial transactions.

On Tuesday, the Senate Banking Subcommittee on Economic Policy held a hearing titled “The Present and Future Impact of Virtual Currency.” This hearing featured two sets of panelists from across the fields of law, state government finance and academia.

One of the featured panelists was David Cotney, commissioner of banks for the Massachusetts Division of Banks. He told the subcommittee:

“States and state regulation have served as a forum for market experimentation as well as an early warning system of troublesome consumer and market trends. As the laboratories of innovation, the states welcome technology developments in the payments system that can lead to greater choice, security, and lower costs for consumers.”

He went on to note that the New York Department of Financial Services has recently announced that it will hold public hearings on virtual currency with an eye toward identifying possible licensing regimes. One of the more interesting footnotes in his testimony was whether virtual currencies are even legal and valid:

“Whether virtual currency is ‘money’ is a critical question. Congress has the sole power to ‘coin money’ and ‘regulate the value thereof’ under Article I, Section 8 of the Constitution. Conversely, Article I, Section 10 prohibits states from coining money. If virtual currency is not money, the states must determine whether it holds monetary value for the purposes of money transmission laws, or whether it is an instrument securing an interest in another currency.”

The Senate Homeland Security and Governmental Affairs Committee also had a hearing on virtual currencies last week. Committee Chairman Tom Carper (D-DE) commented in his opening remarks:

“Virtual currencies, perhaps most notably Bitcoin, have captured the imagination of some, struck fear among others, and confused the heck out of many of us. Fundamental questions remain about what a virtual currency actually is, how it should be treated, and what the future holds... Virtual currency can best be described as digital cash. It is generated by computers, lives on the internet, and can be used to purchase real and digital goods across the world.”

However, it was also noted that virtual currencies can be an effective tool for those looking to launder money and commit other financial crimes. These two hearings were conducted under the premise of establishing a regulatory framework in the future for virtual

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currencies that intersect with the U.S. financial system.

Testimony from the Senate Banking Subcommittee hearing, as well as the archived webcast, can be found at [www.banking.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing\\_ID=955322cc-d648-4a00-a41f-c23be8ff4cad](http://www.banking.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=955322cc-d648-4a00-a41f-c23be8ff4cad).

Testimony from Sen. Carper's Senate Homeland Security Committee hearing, as well as the archived webcast, can be found at [www.hsgac.senate.gov/hearings/beyond-silk-road-potential-risks-threats-and-promises-of-virtual-currencies](http://www.hsgac.senate.gov/hearings/beyond-silk-road-potential-risks-threats-and-promises-of-virtual-currencies).

## **Congress Enters Thanksgiving Recess**

The House and Senate will be out of session for the Thanksgiving Day recess this week. The House will return to session on December 2, with the Senate returning December 9. There are only a few official Congressional work days left before the Christmas holiday recess for Congress to make some headway on a budget conference committee solution to the expiration of funding for the federal government. Funding will run out again on January 15, 2014.